

### Remarks

Claims 1-27 and 38-64 are allowed.

Claims 65-68 are rejected under 35 U.S.C. §102(e) as being anticipated by Walker et al. (U.S. Patent No. 6,345,090). Claims 69-72 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Walker et al. (U.S. Patent No. 6,345,090) in view of Walker et al. (U.S. Patent No. 5,794,207). Claims 75-77 are rejected under 35 U.S.C. §103(a) as obvious over Walker et al. (U.S. Patent No. 6,345,090) in view of Coyle (U.S. Patent No. 6,269,157) (the '157 patent)

Claims 1-27, 38-73 and 75-77 remain pending.

U.S. Patent No. 6,345,090 (the '090 patent) discloses a conditional purchase offer (CPO) management system for receiving and processing CPOs for telephone calls from calling parties. The CPO management system processes the CPOs to determine whether one or more long distance carriers are willing to accept the CPOs and complete telephone calls in accordance with restrictions defined by the calling parties. If accepted, the CPO management system binds the calling party on behalf of the accepting interexchange carrier, to form a legally binding contract. Significantly, the '090 patent does not disclose or suggest a network that receives both purchase and sell orders specifying a class of service and a means for matching the sell and purchase orders and brokering a transaction of telecommunications service, on the basis of at least one of the specified class of service, as required by independent claim 65. According to Figs. 8a and 8b and the corresponding description in column 10 of the '090 patent, the CPO system cannot perform the matching and brokering functions required by claim 65 as it must first forward the CPOs to carriers (step 835) and thereafter awaits acceptance by an interexchange carrier (step 840). Although the '090 patent discloses that the CPO system may employ the so-called CPO rules, such rules are "a combination of such restrictions for which the interexchange carrier 120 is willing to accept a commitment to complete one or more telephone calls." (Col. 6, lines 43-47.) Thus, the CPO rules are not sell orders (i.e. an offer to sell) from carriers as required by claim 65. Rather, the CPO rules are a series of considerations based on, for example, "current network capacity, pricing and revenue information, as well as historical patterns and external events, to forecast future calling demand." (Col. 6, lines 58-63.) In sum, the CPO system does not receive a sell order from a carrier within the meaning of claim 65, and thus cannot perform the matching and brokering functions as required by claim 65.

In any event, the '090 patent (filed on September 4, 1997) has a later filing date than that of the parent application of the present application. More specifically, the present application claims priority to Application No. 08/920,567, which was filed on August 29, 1997, and which disclosed the matching and brokering functions required by claim 65. Accordingly, the '090 patent is not a proper reference against the present application.

For the aforementioned reasons, independent claim 65 is patentable over the '090 patent. Claims 66-68 depending from claim 65 are also patentable for the same reasons. Withdrawal of the Section 102(e) rejection is respectfully requested.

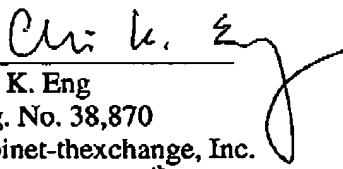
Claims 69-72, which depend from claim 65, have also overcome the Section 103(a) rejection because the cited references, either singly or in combination, fail to disclose or suggest all of the limitations of claim 65 for the above-cited reasons. Accordingly, Applicant respectfully requests the Examiner to withdraw this rejection.

Claims 75-77, which depend from claim 65, are likewise patentable as the cited '090 patent and/or the '157 patent fail to disclose or teach all of the limitations required by claim 65. Withdrawal of this Section 103(a) rejection is also respectfully requested.

It is respectfully submitted that all of the pending claims of the present application are in condition for allowance in light of the above remarks and Applicant's submissions. Such action is requested.

Respectfully submitted,

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